

§ 104.3

search for and recover victims, the immediate aftermath shall include the period from the crashes until 96 hours after the crashes.

(c) *Physical harm.* (1) The term *physical harm* shall mean a physical injury to the body that was treated by a medical professional within 24 hours of the injury having been sustained, or within 24 hours of rescue, or within 72 hours of injury or rescue for those victims who were unable to realize immediately the extent of their injuries or for whom treatment by a medical professional was not available on September 11, or within such time period as the Special Master may determine for rescue personnel who did not or could not obtain treatment by a medical professional within 72 hours; and

(2) In every case not involving death, the physical injury must be verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care.

(d) *Personal Representative.* The term *Personal Representative* shall mean the person determined to be the Personal Representative under §104.4 of this part.

(e) *Present at the site.* The term *present at the site* (i.e., the World Trade Center, Pentagon, or Shanksville, Pennsylvania site) shall mean physically present at the time of the crashes or in the immediate aftermath:

(1) In the buildings or portions of buildings that were destroyed as a result of the airplane crashes; or

(2) In any area contiguous to the crash sites that the Special Master determines was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or building collapses (generally, the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured persons).

[66 FR 66282, Dec. 21, 2001, as amended at 67 FR 11245, Mar. 13, 2002]

§ 104.3 Other definitions.

(a) *Beneficiary.* The term *beneficiary* shall mean a person to whom the Personal Representative shall distribute

28 CFR Ch. I (7–1–08 Edition)

all or part of the award under §104.52 of this Part.

(b) *Dependents.* The Special Master shall identify as dependents those persons so identified by the victim on his or her federal tax return for the year 2000 (or those persons who legally could have been identified by the victim on his or her federal tax return for the year 2000) unless:

(1) The claimant demonstrates that a minor child of the victim was born or adopted on or after January 1, 2001;

(2) Another person became a dependent in accordance with then-applicable law on or after January 1, 2001; or

(3) The victim was not required by law to file a federal income tax return for the year 2000.

(c) *Spouse.* The Special Master shall identify as the spouse of a victim the person reported as spouse on the victim's federal tax return for the year 2000 unless:

(1) The victim was married or divorced in accordance with applicable state law on or after January 1, 2001; or

(2) The victim was not required by law to file a federal income tax return for the year 2000.

(d) *The Act.* *The Act*, as used in this part, shall mean Public Law 107–42, 115 Stat. 230 (“Air Transportation Safety and System Stabilization Act”), 49 U.S.C. 40101 note.

(e) *Victim.* The term *victim* shall mean an eligible injured claimant or a decedent on whose behalf a claim is brought by an eligible Personal Representative.

[66 FR 66282, Dec. 21, 2001, as amended at 67 FR 11245, Mar. 13, 2002]

§ 104.4 Personal Representative.

(a) *In general.* The Personal Representative shall be:

(1) An individual appointed by a court of competent jurisdiction as the Personal Representative of the decedent or as the executor or administrator of the decedent's will or estate.

(2) In the event that no Personal Representative or executor or administrator has been appointed by any court of competent jurisdiction, and such issue is not the subject of pending litigation or other dispute, the Special Master may, in his discretion, determine that the Personal Representative